

**United States District Court
Southern District of New York**

Gary Miller, d/b/a enature.net,

Plaintiff,

against

Pavel Ushakov and Center Studios, LLC.,

Defendants.

Complaint

07CV5713
(MGC)
ECF CASE

Plaintiff, by his attorney Eugene B Nathanson, alleges:

1. Plaintiff Gary Miller is an individual residing in the State of California.

Miller, doing business as enature.net, sells naturist motion picture video programs and other naturist publications.

2. Defendant Pavel Ushakov, upon information and belief, is the sole owner of Center Studios, LLC, a corporation organized under the laws of the State of Ohio. Through Center Studios Ushakov operates Purenudism.com and Bebaretoo.com, subscription-based websites.

Jurisdiction and Venue

3. This is a civil action for copyright infringement arising under the Copyright Act of 1976, 17 U.S.C. § 101 et seq. Jurisdiction of this Court is based upon 28 U.S.C. §§1331 and 1338(a).

4. Venue lies in the Southern District of New York pursuant to 28 U.S.C. §§1391(b).

The Copyright Videos

5. Since the dates set forth below, plaintiff has been the owner of the following video programs, duly registered with the United States Copyright Office.

<u>Title of Production</u>	<u>Registration No.</u>
4th of July	PA 1-112-654
Ivana Kupala	PA 1-112-654
A Day of Camping	PA 1-113-215
Building Bridges	PA 1-113-239
Castle Naturism	PA 1-262-715
Fun at the Beach	PA 1-265-189
Lost Ship and Snow Bunnies	PA 1-351-686
Naturist Games	PA 1-265-187
Rituals of Summer	PA 1-113-232
Riverside Film 2	PA 1-351-717

(Collectively "the "Video Programs".)

6. The copyrights in the Video Programs are valid and subsisting, were originally registered by the Plaintiff, and have not been licensed to defendants.

7. Since first publication of the Video Programs, plaintiff has been actively engaged in the sale, marketing, promotion, and other exploitation of the Video Programs.

8. Since the first publication of the Video Programs, all copies of the Video Programs have been published in strict conformity with the provisions of 17 USC §§ 101 et seq.

9. Plaintiff is the sole proprietor of all rights to the copyright on each of the Video Programs.

10. In addition to the Video Programs, Miller, through a d/b/a, Body and Mind Publications, publishes and distributes for sale a book, “Holy Nature, A Celebration of Naturism in Today’s Russia.” (“Holy Nature”). Holy Nature has always been published in strict conformity with the provisions of 17 USC §§ 101 et seq. Registration for Holy Nature has been filed with the U.S. Copyright Office.

The infringements

11. Throughout some or all of 2006, defendants reproduced on the websites purenudism.com and barebetoo.com numerous images from the Video Programs, including the following:

Infringed Video Program	Images on defendants’ website
4th of July	teen5790.jpg
Ivana Kupala	teen6426.jpg
A Day of Camping	teen4903.jpg
Building Bridges	teen60754.jpg
Castle Naturism	teen6075.jpg teen6076.jpg

Fun at the Beach	teen4945.jpg
Lost Ship and Snow Bunnies	5-0643.jpg 5-0521.jpg 5-0522.jpg
Naturist Games	pn_v012_1024k_t1_stillsl.jpg
Rituals of Summer	5-0988.jpg
Riverside Film 2	5-0491.jpg 5-1114.jpg 5-1066.jpg

12. Throughout some or all of 2006, defendants reproduced on the websites purenudism.com and barebetoo.com “teen6700.jpg,” an image from Holy Nature.

13. Through their website, defendants distribute images infringing plaintiff’s copyrights throughout the United States, including in the Southern District of New York.

14. Three videoclips, identified as “Nudist Games,” “Nudist Games II,” and “Family at the Beach,” have been posted on purenudism.com and barebetoo.com since before April 26, 2005.

15. Nudist Games and Nudist Games II contain excerpts from plaintiff’s copyright films “Naturist Games, and Family at the Beach contains excerpts from plaintiff’s copyright film “Fun at the Beach.”

16. On April 26, 2005, plaintiff licensed Ushakov to post all three videoclips on his websites. A condition of the license was that Ushakov place beneath the videoclips

a link to a website maintained by plaintiff where the infringed films were available for sale, plus the legend, "Full Length Nudist DVD here."

17. Ushakov never posted the legend or the link.

18. On December 20, 2006, plaintiff advised Ushakov that he was discontinuing any relationship with Ushakov.

19. Ushakov never removed the video clips from his websites, and they are still available for viewing and download on his websites.

Request for relief

Wherefore, Plaintiff requests judgment against defendants as follows:

I. Defendants, their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, be temporarily, preliminarily, and permanently enjoined from imitating, copying, counterfeiting, posting on any website, or making unauthorized use of the Video Programs and Holy Nature;

II. Defendants be required to deliver up to be impounded during the pendency of this action any computer, server, or other device used to post the infringing images;

III. Defendant be required to relinquish all rights and use of the URLs purenudism.com, bebaretoo.com, and any other web site used to post infringing images;

IV. Defendants be required to account for and pay over to the Plaintiff all damages sustained by the plaintiff, including statutory damages, and any and all profits realized by defendants by reason of their unlawful acts alleged herein, and that such

amounts be trebled, as provided by law and/or increased to the maximum allowed by law as a result of defendants' willful conduct.

V. Defendants be required to pay to the plaintiff all of its costs, disbursements, and attorneys' fees in this action.

VI. Plaintiff have such other and further relief as the Court may deem appropriate to prevent the infringement of its copyrights.

Dated: New York, NY
June 12, 2007

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